



General Assembly

January Session, 2013

***Raised Bill No. 6673***

LCO No. 4807



Referred to Committee on GOVERNMENT  
ADMINISTRATION AND ELECTIONS

Introduced by:  
(GAE)

***AN ACT CONCERNING THE ASSESSMENT OF PROPOSED  
PRIVATIZATION CONTRACTS.***

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 4e-1 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2013*):

3 For the purposes of sections 4e-1 to 4e-47, inclusive:

4 (1) "Best value selection" means a contract selection process in which  
5 the award of a contract is based on a combination of quality, timeliness  
6 and cost factors;

7 (2) "Bid" means an offer, submitted in response to an invitation to  
8 bid, to furnish supplies, materials, equipment, construction or  
9 contractual services to a state contracting agency under prescribed  
10 conditions at a stated price;

11 (3) "Bidder" means a business submitting a bid in response to an  
12 invitation to bid by a state contracting agency;

13       (4) "Business" means any individual or sole proprietorship,  
14       partnership, firm, corporation, trust, limited liability company, limited  
15       liability partnership, joint stock company, joint venture, association or  
16       other legal entity through which business for profit or not-for-profit is  
17       conducted;

18       (5) "Competitive bidding" means the submission of prices by a  
19       business competing for a contract to provide supplies, materials,  
20       equipment or contractual services to a state contracting agency, under  
21       a procedure in which the contracting authority does not negotiate  
22       prices, as set forth in statutes and regulations concerning procurement;

23       (6) "Consultant" means (A) any architect, professional engineer,  
24       landscape architect, land surveyor, accountant, interior designer,  
25       environmental professional or construction administrator, who is  
26       registered or licensed to practice such person's profession in  
27       accordance with the applicable provisions of the general statutes, (B)  
28       any planner or any environmental, management or financial specialist,  
29       or (C) any person who performs professional work in areas including,  
30       but not limited to, educational services, medical services, information  
31       technology and real estate appraisal;

32       (7) "Consultant services" means those professional services rendered  
33       by a consultant and any incidental services that a consultant and those  
34       in the consultant's employ are authorized to perform;

35       (8) "Contract" or "state contract" means an agreement or a  
36       combination or series of agreements between a state contracting  
37       agency or quasi-public agency and a business for:

38       (A) A project for the construction, reconstruction, alteration,  
39       remodeling, repair or demolition of any public building, public work,  
40       mass transit, rail station, parking garage, rail track or airport;

41       (B) Services, including, but not limited to, consultant and  
42       professional services;

43 (C) The acquisition or disposition of personal property;

44 (D) The provision of goods and services, including, but not limited  
45 to, the use of purchase of services contracts and personal service  
46 agreements;

47 (E) The provision of information technology, state agency  
48 information system or telecommunication system facilities, equipment  
49 or services;

50 (F) A lease; or

51 (G) A licensing agreement;

52 "Contract" or "state contract" does not include a contract between a  
53 state agency or a quasi-public agency and a political subdivision of the  
54 state;

55 (9) "Term contract" means the agreement reached when the state  
56 accepts a bid or proposal to furnish supplies, materials, equipment or  
57 contractual services at a stated price for a specific period of time in  
58 response to an invitation to bid;

59 (10) "Contract risk assessment" means (A) the identification and  
60 evaluation of loss exposures and risks, including, but not limited to,  
61 business and legal risks associated with the contracting process and  
62 the contracted goods and services, and (B) the identification,  
63 evaluation and implementation of measures available to minimize  
64 potential loss exposures and risks;

65 (11) "Contractor" means any business that is awarded, or is a  
66 subcontractor under, a contract or an amendment to a contract with a  
67 state contracting agency under statutes and regulations concerning  
68 procurement, including, but not limited to, a small contractor, minority  
69 business enterprise, an individual with a disability, as defined in  
70 section 4a-60, or an organization providing products and services by  
71 persons with disabilities;

72       (12) "Contractual services" means the furnishing of labor by a  
73 contractor, not involving the delivery of a specific end product other  
74 than reports, which are merely incidental to the required performance  
75 and includes any and all laundry and cleaning service, pest control  
76 service, janitorial service, security service, the rental and repair, or  
77 maintenance, of equipment, machinery and other state-owned  
78 personal property, advertising and photostating, mimeographing,  
79 human services and other service arrangements where the services are  
80 provided by persons other than state employees. "Contractual services"  
81 includes the design, development and implementation of technology,  
82 communications or telecommunications systems or the infrastructure  
83 pertaining thereto, including hardware and software and services for  
84 which a contractor is conferred a benefit by the state, whether or not  
85 compensated by the state. "Contractual services" does not include  
86 employment agreements or collective bargaining agreements;

87       (13) "Data" means recorded information, regardless of form or  
88 characteristic;

89       (14) "Vote of two-thirds of the members of the board present and  
90 voting" means a vote by the State Contracting Standards Board that is  
91 agreed upon by two-thirds of the members of the State Contracting  
92 Standards Board present and voting for a particular purpose and that  
93 includes the vote of one member of the board appointed by a  
94 legislative leader;

95       (15) "Electronic" means electrical, digital, magnetic, optical,  
96 electromagnetic, or any other similar technology;

97       (16) "Emergency procurement" means procurement by a state  
98 contracting agency, quasi-public agency, as defined in section 1-120,  
99 judicial department or constituent unit of higher education that is  
100 made necessary by a sudden, unexpected occurrence that poses a clear  
101 and imminent danger to public safety or requires immediate action to  
102 prevent or mitigate the loss or impairment of life, health, property or  
103 essential public services or in response to a court order, settlement

104 agreement or other similar legal judgment;

105 (17) "Equipment" means personal property of a durable nature that  
106 retains its identity throughout its useful life;

107 (18) "Materials" means items required to perform a function or used  
108 in a manufacturing process, particularly those incorporated into an  
109 end product or consumed in its manufacture;

110 (19) "Nonprofit agency" means any organization that is not a for-  
111 profit business under 501(c)(3) of the Internal Revenue Code of 1986, or  
112 any subsequent corresponding internal revenue code of the United  
113 States, as from time to time amended, makes no distribution to its  
114 members, directors or officers and provides services contracted for by  
115 (A) the state, or (B) a nonstate entity;

116 (20) "Professional services" means any type of service to the public  
117 that requires that members of a profession rendering such service  
118 obtain a license or other legal authorization as a condition precedent to  
119 the rendition thereof, including, but not limited to, the professional  
120 services of architects, professional engineers, or jointly by architects  
121 and professional engineers, landscape architects, certified public  
122 accountants and public accountants, land surveyors, attorneys-at-law,  
123 psychologists, licensed marital and family therapists, licensed  
124 professional counselors and licensed clinical social workers as well as  
125 such other professional services described in section 33-182a;

126 (21) "Privatization contract" means an agreement or series of  
127 agreements between a state contracting agency and a person or entity  
128 in which such person or entity agrees to provide services that are  
129 substantially similar to and in lieu of services provided, in whole or in  
130 part, by state employees, other than contracts with a nonprofit agency,  
131 which are in effect as of January 1, 2009, and which through a renewal,  
132 modification, extension or rebidding of contracts continue to be  
133 provided by a nonprofit agency;

134 (22) "Procurement" means contracting for, buying, purchasing,

135 renting, leasing or otherwise acquiring or disposing of, any supplies,  
136 services, including but not limited to, contracts for purchase of services  
137 and personal service agreements, interest in real property, or  
138 construction, and includes all government functions that relate to such  
139 activities, including best value selection and qualification based  
140 selection;

141 (23) "Proposer" means a business submitting a proposal to a state  
142 contracting agency in response to a request for proposals or other  
143 competitive sealed proposal;

144 (24) "Public record" means a public record, as defined in section 1-  
145 200;

146 (25) "Qualification based selection" means a contract selection  
147 process in which the award of a contract is primarily based on an  
148 assessment of contractor qualifications and on the negotiation of a fair  
149 and reasonable price;

150 (26) "Regulation" means regulation, as defined in section 4-166;

151 (27) "Request for proposals" means all documents, whether attached  
152 or incorporated by reference, utilized for soliciting proposals;

153 (28) "State contracting agency" means any executive branch agency,  
154 board, commission, department, office, institution or council. "State  
155 contracting agency" does not include the judicial branch, the legislative  
156 branch, the offices of the Secretary of the State, the State Comptroller,  
157 the Attorney General, the State Treasurer, with respect to their  
158 constitutional functions, any state agency with respect to contracts  
159 specific to the constitutional and statutory functions of the office of the  
160 State Treasurer. For the purposes of section 4e-16, as amended by this  
161 act, state contracting agency includes any constituent unit of the state  
162 system of higher education;

163 (29) "Subcontractor" means a subcontractor of a contractor for work  
164 under a contract or an amendment to a contract;

165 (30) "Supplies" means any and all articles of personal property,  
166 including, but not limited to, equipment, materials, printing, insurance  
167 and leases of real property, excluding land or a permanent interest in  
168 land furnished to or used by any state agency;

169 (31) "Infrastructure facility" means a building, structure or network  
170 of buildings, structures, pipes, controls and equipment that provide  
171 transportation, utilities, public education or public safety services.  
172 Infrastructure facility includes government office buildings, public  
173 schools, jails, water treatment plants, distribution systems and  
174 pumping stations, wastewater treatment plants, collections systems  
175 and pumping stations, solid waste disposal plants, incinerators,  
176 landfills, and related facilities, public roads and streets, highways,  
177 public parking facilities, public transportation systems, terminals and  
178 rolling stock, rail, air and water port structures, terminals and  
179 equipment; [and]

180 (32) "State employee" means state employee, as defined in section 5-  
181 154 and, for purposes of section 4e-16, as amended by this act, state  
182 employee includes an employee of any state contracting agency; and

183 (33) "Reimbursable personal services" means personal services for  
184 which the state receives full or partial reimbursement from a nonstate  
185 entity.

186 Sec. 2. Section 4e-16 of the general statutes is repealed and the  
187 following is substituted in lieu thereof (*Effective July 1, 2013*):

188 (a) Prior to entering any privatization contract for the privatization  
189 of a state service that is not currently privatized, the state contracting  
190 agency shall develop a cost-benefit analysis in accordance with the  
191 provisions of subsection (b) of this section. [Such requirement shall not  
192 apply to a privatization contract for a service currently provided, in  
193 whole or in part, by a non-state entity.] The state contracting agency  
194 may waive the requirement for such cost-benefit analysis if the  
195 commissioner of such agency certifies, in writing, that the contract is

196 for a service currently provided, in whole or in part, by a nonstate  
 197 entity and either (1) a prior cost-benefit analysis conducted by the  
 198 agency of the privatization of the service under circumstances not  
 199 materially different from the current circumstances met the standards  
 200 of this section, or (2) the total annual state expenditure on such  
 201 contract will be less than fifty thousand dollars. Any affected party  
 202 may petition the State Contracting Standards Board for review of such  
 203 privatization contract, in accordance with the provisions of subsections  
 204 (f) to (h), inclusive, of this section.

205 (b) The cost-benefit analysis conducted by a state contracting agency  
 206 prior to entering a privatization contract shall document the direct and  
 207 indirect costs, savings, and qualitative and quantitative benefits, that  
 208 will result from the implementation of such privatization contract.  
 209 Such cost-benefit analysis shall specify the schedule that, at a  
 210 minimum, shall be adhered to in order to achieve any estimated  
 211 savings. Any cost factor shall be clearly identified in such cost-benefit  
 212 analysis and supported by all applicable records and reports. The  
 213 department head of such state contracting agency shall certify that,  
 214 based on the data and information, all projected costs, savings and  
 215 benefits are valid and achievable. As used in this subsection, "costs"  
 216 means all reasonable, relevant and verifiable expenses, including  
 217 salary, materials, supplies, services, equipment, capital depreciation,  
 218 rent, maintenance, repairs, utilities, insurance, travel, overhead,  
 219 interim and final payments and the normal cost of fringe benefits, as  
 220 calculated by the Comptroller. As used in this subsection, "savings"  
 221 means the difference between the current annual direct and indirect  
 222 costs of providing such service and the projected, annual direct and  
 223 indirect costs of contracting to provide such services in any succeeding  
 224 state fiscal year during the term of such proposed privatization  
 225 contract.

226 (c) (1) If such cost-benefit analysis identifies a cost savings to the  
 227 state of ten per cent or more, and such privatization contract will not  
 228 diminish the quality of such service, the state contracting agency shall



229 develop a business case, in accordance with the provisions of  
230 subsection (d) of this section, in order to evaluate the feasibility of  
231 entering any such contract and to identify the potential results,  
232 effectiveness and efficiency of such contract.

233 (2) If such cost-benefit analysis identifies a cost savings of less than  
234 ten per cent to the state and such privatization contract will not  
235 diminish the quality of such service, the state contracting agency may  
236 develop a business case, in accordance with the provisions of  
237 subsection (d) of this section, in order to evaluate the feasibility of  
238 entering any such contract and to identify the potential results,  
239 effectiveness and efficiency of such contract, provided there is a  
240 significant public policy reason to enter into such privatization  
241 contract. Any such business case shall be approved in accordance with  
242 the provisions of subdivision (4) of subsection (h) of this section.

243 (3) If any such proposed privatization contract would result in the  
244 layoff, transfer or reassignment of one hundred or more state agency  
245 employees, after consulting with the potentially affected bargaining  
246 units, if any, the state contracting agency shall notify the state  
247 employees of such bargaining unit, after such [cost benefit] cost-benefit  
248 analysis is completed. Such state contracting agency shall provide an  
249 opportunity for said employees to reduce the costs of conducting the  
250 operations to be privatized and provide reasonable resources for the  
251 purpose of encouraging and assisting such state employees to organize  
252 and submit a bid to provide the services that are the subject of the  
253 potential privatization contract. The state contracting agency shall  
254 retain sole discretion in determining whether to proceed with the  
255 privatization contract, provided the business case for such contract is  
256 approved by the board.

257 (d) Any business case developed by a state contracting agency for  
258 the purpose of complying with subsection (c) of this section shall  
259 include: (1) The [cost benefit] cost-benefit analysis as described in  
260 subsection (b) of this section, (2) a detailed description of the service or  
261 activity that is the subject of such business case, (3) a description and

262 analysis of the state contracting agency's current performance of such  
 263 service or activity, (4) the goals to be achieved through the proposed  
 264 privatization contract and the rationale for such goals, (5) a description  
 265 of available options for achieving such goals, (6) an analysis of the  
 266 advantages and disadvantages of each option, including, at a  
 267 minimum, potential performance improvements and risks attendant to  
 268 termination of the contract or rescission of such contract, (7) a  
 269 description of the current market for the services or activities that are  
 270 the subject of such business case, (8) an analysis of the quality of  
 271 services as gauged by standardized measures and key performance  
 272 requirements including compensation, turnover, and staffing ratios, (9)  
 273 a description of the specific results-based performance standards that  
 274 shall, at a minimum be met, to ensure adequate performance by any  
 275 party performing such service or activity, (10) the projected time frame  
 276 for key events from the beginning of the procurement process through  
 277 the expiration of a contract, if applicable, (11) a specific and feasible  
 278 contingency plan that addresses contractor nonperformance and a  
 279 description of the tasks involved in and costs required for  
 280 implementation of such plan, and (12) a transition plan, if appropriate,  
 281 for addressing changes in the number of agency personnel, affected  
 282 business processes, employee transition issues, and communications  
 283 with affected stakeholders, such as agency clients and members of the  
 284 public, if applicable. Such transition plan shall contain a reemployment  
 285 and retraining assistance plan for employees who are not retained by  
 286 the state or employed by the contractor. If the primary purpose of the  
 287 proposed privatization contract is to provide a core governmental  
 288 function, such business case shall also include information sufficient to  
 289 rebut the presumption that such core governmental function should  
 290 not be privatized. Such presumption shall not be construed to prohibit  
 291 a state contracting agency from contracting for specialized technical  
 292 expertise not available within such agency, provided such agency shall  
 293 retain responsibility for such core governmental function. For the  
 294 purposes of this section, "core governmental function" means a  
 295 function for which the primary purpose is (A) the inspection for  
 296 adherence to health and safety standards because public health or

297 safety may be jeopardized if such inspection is not done or is not done  
 298 in a timely or proper manner, (B) the establishment of statutory,  
 299 regulatory or contractual standards to which a regulated person, entity  
 300 or state contractor shall be held, (C) the enforcement of statutory,  
 301 regulatory or contractual requirements governing public health or  
 302 safety, or (D) criminal or civil law enforcement. If any part of such  
 303 business case is based upon evidence that the state contracting agency  
 304 is not sufficiently staffed to provide the core governmental function  
 305 required by the privatization contract, the state contracting agency  
 306 shall also include within such business case a plan for remediation of  
 307 the understaffing to allow such services to be provided directly by the  
 308 state contracting agency in the future.

309 (e) [Upon] (1) Except as provided in subdivision (2) of this  
 310 subsection, upon the completion of such business case, the state  
 311 contracting agency shall submit the business case to the State  
 312 Contracting Standards Board. For any privatization contract with a  
 313 projected cost that exceeds one hundred fifty million dollars annually  
 314 or six hundred million dollars over the life of such contract, the state  
 315 contracting agency shall also submit such business case to the  
 316 Governor, the president pro tempore of the Senate, the speaker of the  
 317 House of Representatives, and any collective bargaining unit affected  
 318 by the proposed privatization contract.

319 (2) If any proposed privatization contract involves reimbursable  
 320 personal services, the state contracting agency shall submit the cost-  
 321 benefit analysis and business case to the Comptroller prior to  
 322 submitting such contract to the board and shall demonstrate to the  
 323 satisfaction of the Comptroller that the projected savings of such  
 324 contract to the state will outweigh the loss of third-party contributions  
 325 toward accumulated post-employment liabilities. If the state  
 326 contracting agency fails to make such demonstration, it shall not  
 327 submit the business case to the board in accordance with subdivision  
 328 (1) of this subsection and the state contracting agency shall not enter  
 329 into such contract. If the state contracting agency succeeds in making

330 such demonstration, it shall submit the business case to the board and  
331 any other applicable public official in accordance with subdivision (1)  
332 of this subsection, along with the Comptroller's written certification  
333 that the state contracting agency has succeeded in making such  
334 demonstration.

335 (f) (1) There shall be a privatization contract committee of the State  
336 Contracting Standards Board that shall review, evaluate, issue  
337 advisory reports and make recommendations on business cases  
338 submitted to the board by any state contracting agency. Such  
339 privatization contract committee shall consist of five members of the  
340 State Contracting Standards Board. Such members shall be appointed  
341 by the chairperson of the board and consist of both gubernatorial and  
342 legislative appointments, have not more than three members from any  
343 one political party, and at least one member of such committee shall  
344 have expertise in the area that is the subject of such proposed contract.  
345 The chairperson of the board, or the chairperson's designee shall serve  
346 as the chair of the privatization contract committee.

347 (2) Upon receipt of any such business case from a state contracting  
348 agency, the State Contracting Standards Board shall immediately refer  
349 such business case to such privatization contract committee. The  
350 privatization contract committee shall employ a standard process for  
351 reviewing, evaluating and approving any such business cases. Such  
352 process shall include due consideration of: (A) The cost-benefit  
353 analysis developed by the state contracting agency, (B) the business  
354 case developed by the state contracting agency, including any facts,  
355 documents or other materials that are relevant to such business case,  
356 (C) any adverse effect that such privatization contract may have on  
357 minority, small and women-owned businesses that do, or are  
358 attempting to do business with the state, and (D) the value of having  
359 services performed in the state and within the United States.

360 (3) The privatization committee shall evaluate the business case and  
361 submit the committee's evaluation to the State Contracting Standards  
362 Board for review and approval. During the review or consideration of

363 any such business case, no member of the board shall engage in any  
364 ex-parte communication with any lobbyist, contractor or union  
365 representative. Unless otherwise provided in this section, a majority  
366 vote of the board shall be required to approve any such business case.

367 (4) The business case for a privatization contract to provide a core  
368 governmental function may be approved by a two-thirds vote of the  
369 board, provided the state contracting agency has provided sufficient  
370 evidence to rebut the presumption contained in subsection (d) of this  
371 section and there is a significant policy reason to approve such  
372 business case. In no such case shall the insufficient staffing of a state  
373 contracting agency constitute a significant policy reason to approve a  
374 business case for a privatization contract to provide a core  
375 governmental function.

376 (g) Each state contracting agency that submits a business case to the  
377 board for review shall submit to the board all information, documents  
378 or other material required by the privatization contract committee to  
379 complete its review and evaluation of such business case.

380 (h) (1) Not later than sixty days after receipt of any business case,  
381 the State Contracting Standards Board shall transmit a report detailing  
382 its review, evaluation and disposition regarding such business case to  
383 the state contracting agency that submitted such business case and, in  
384 the case of a privatization contract with a projected cost of one  
385 hundred fifty million dollars or more annually, or six hundred million  
386 dollars or more over the life of the contract, concomitantly transmit  
387 such report to the Governor, the president pro tempore of the Senate,  
388 the speaker of the House of Representatives and any collective  
389 bargaining unit affected by the proposed privatization contract. Such  
390 sixty-day period may be extended for an additional thirty days upon a  
391 majority vote of the board or the privatization contract committee and  
392 for good cause shown.

393 (2) The board's report shall include the business case prepared by  
394 the state contracting agency, the evaluation of the business case

395 prepared by the privatization contract committee, the reasons for  
396 approval or disapproval, any recommendations of the board and  
397 sufficient information to assist the state contracting agency in  
398 determining if additional steps are necessary to move forward with a  
399 privatization contract.

400 (3) If the State Contracting Standards Board does not act on a  
401 business case submitted by a state contracting agency within sixty  
402 days of receipt of such business case, such business case shall be  
403 deemed approved, except that no business case may be approved for  
404 failure of the board to meet.

405 (4) In the case of a business case developed pursuant to subdivision  
406 (2) of subsection (c) of this section, a two-thirds vote of the board shall  
407 be required for approval of such privatization contract.

408 (5) Any state contracting agency may request an expedited review  
409 of a business case submitted to the board if there is a compelling public  
410 interest for such expedited review. If the board approves the agency's  
411 request for such an expedited review, such review shall be completed  
412 not later than thirty days after receipt of such request. If the board fails  
413 to complete an expedited review within thirty days of receipt of a  
414 request that was approved by the board, such business case shall be  
415 deemed to be approved.

416 (i) A state contracting agency may publish notice soliciting bids for a  
417 privatization contract only after the board approves such business  
418 case, provided any privatization contract that is estimated to cost in  
419 excess of one hundred fifty million dollars annually or six hundred  
420 million dollars or more over the life of the contract shall also be  
421 approved by the General Assembly prior to the state contracting  
422 agency soliciting bids for such contract. The General Assembly may  
423 approve any such contract as a whole by a majority vote of each house  
424 or may reject such agreement as a whole by a majority vote of either  
425 house. If the General Assembly is in session, it shall vote to approve or  
426 reject such contract not later than thirty days after such state

427 contracting agency files such contract with the General Assembly. If  
428 the General Assembly is not in session when such contract is filed, it  
429 shall be submitted to the General Assembly not later than ten days  
430 after the first day of the next regular session or special session called  
431 for such purpose. The contract shall be deemed approved if the  
432 General Assembly fails to vote to approve or reject such contract  
433 within thirty days after such filing. Such thirty-day period shall not  
434 begin or expire unless the General Assembly is in regular session. For  
435 the purpose of this subsection, any contract filed with the clerks within  
436 thirty days before the commencement of a regular session of the  
437 General Assembly shall be deemed to be filed on the first day of such  
438 session.

439 (j) Each state contracting agency shall submit, in writing, to the State  
440 Contracting Standards Board, any proposed amendment to a board-  
441 approved business case in order that the board may review and  
442 approve of such proposed amendment. The board may approve or  
443 disapprove of any such proposed amendment not later than thirty  
444 days after receipt of such proposed amendment by the same vote that  
445 was required for approval of the original business case. If the board  
446 fails to complete its review within thirty days of receipt of such  
447 proposed amendment, such amendment shall be deemed approved.

448 (k) Not later than thirty days after a decision of the board to  
449 approve a business case, any collective bargaining agent of any  
450 employee adversely affected by such proposed privatization contract  
451 may file a motion for an order to show cause in the superior court for  
452 the judicial district of Hartford on the grounds that such contract fails  
453 to comply with the substantive or procedural requirements of this  
454 section. A ruling on any such motion may: (1) Deny the motion; (2)  
455 grant the motion if the court finds that the proposed contract would  
456 substantively violate the provisions of this section; or (3) stay the  
457 effective date of the contract until any substantive or procedural defect  
458 found by the court has been corrected.

459 (l) (1) The board may review additional existing privatization

460 contracts and shall review not less than one contracting area each year  
461 that is currently privatized. During the review of any such  
462 privatization contract, no member of the board shall engage in any ex-  
463 parte communication with any lobbyist, contractor or union  
464 representative. For each such privatization contract selected for review  
465 by the board, the appropriate state contracting agency shall develop a  
466 cost-benefit analysis in accordance with subsection (b) of this section.  
467 In addition, any affected party may petition the board for review of  
468 any existing privatization contract, in accordance with the provisions  
469 of subsections (f) to (h), inclusive, of this section.

470       (2) If such cost-benefit analysis identifies a ten per cent or more cost  
471 savings to the state from the use of such privatization contract and  
472 such contract does not diminish the quality of the service provided,  
473 such state contracting agency shall develop a business case for the  
474 renewal of such privatization contract in accordance with the  
475 provisions of subsections (d) and (e) of this section. The board shall  
476 review such contract in accordance with the provisions of subsections  
477 (f) to (h), inclusive, of this section and may approve such renewal by  
478 the applicable vote of the board, provided any such renewal that is  
479 estimated to cost in excess of one hundred fifty million dollars  
480 annually or six hundred million dollars or more over the life of the  
481 contract shall also be approved by the General Assembly prior to the  
482 state contracting agency renewing such contract. If such renewal is  
483 approved by the board and the General Assembly, if applicable, the  
484 provisions of subsection (j) of this section shall apply to any proposed  
485 amendment to such contract.

486       (3) If such cost-benefit analysis identifies a cost savings to the state  
487 of less than ten per cent, such state contracting agency shall prepare a  
488 plan to have such service provided by state employees and shall begin  
489 to implement such plan, provided: (A) While such plan is prepared,  
490 but prior to implementation of such plan, such state contracting  
491 agency may develop a business case for such privatization contract, in  
492 accordance with the provisions of subsection (d) of this section, that



493 achieves a cost savings to the state of ten per cent or more. Any such  
494 business case shall be reviewed by the board in accordance with the  
495 provisions of subsections (f) to (h), inclusive, of this section, and may  
496 be approved by the applicable vote of the board; (B) such privatization  
497 contract shall not be renewed with the vendor currently providing  
498 such service unless: (i) There exists a significant public interest in  
499 renewing such contract, and (ii) such renewal is approved by a two-  
500 thirds vote of the board; (C) the state contracting agency may enter  
501 into a contract with a term of one year or less for the provision of such  
502 service until such state contracting agency implements such plan; and  
503 (D) the procedure for the transfer of funds from the General Fund, as  
504 described in section 4-94, may be utilized to allocate necessary  
505 resources for the implementation of the provisions of this subdivision.

506 (4) Notwithstanding the provisions of subdivision (3) of this  
507 subsection, the renewal of a privatization contract with a nonprofit  
508 organization shall not be denied if the cost of increasing compensation  
509 to employees performing the privatized service is the sole cause for  
510 such contract not achieving a cost savings to the state of ten per cent or  
511 more.

512 (m) The Office of Policy and Management, in consultation with the  
513 State Contracting Standards Board, shall: (1) Develop policies and  
514 procedures, including templates for use by state contracting agencies  
515 for the development of a cost-benefit analysis, as described in  
516 subsection (b) of this section, and (2) review with each state contracting  
517 agency the budgetary impact of any such privatization contract and  
518 the need to request budget adjustments in connection with any such  
519 privatization contract.

520 (n) The State Contracting Standards Board, in consultation with the  
521 Department of Administrative Services, shall: (1) Recommend and  
522 implement standards and procedures for state contracting agencies to  
523 develop business cases in connection with privatization contracts,  
524 including templates for use by state contracting agencies when  
525 submitting business cases to the board, and policies and procedures to

526 guide state contracting agencies to complete such business cases, and  
 527 (2) develop guidelines and procedures for assisting state employees  
 528 whose jobs are affected by a privatization contract.

529 (o) Notwithstanding the provisions of subsections (a) and (i) of this  
 530 section, a state contracting agency may enter into a privatization  
 531 contract without development of a cost-benefit analysis or approval of  
 532 a business case by the State Contracting Standards Board if (1) the state  
 533 contracting agency finds that a privatization contract is required (A)  
 534 due to an imminent peril to the public health, safety or welfare or  
 535 constitutes an emergency procurement, and (B) the agency states, in  
 536 writing, its reasons for such finding; and (2) the Governor approves  
 537 such finding, in writing.

538 (p) Nothing in this section shall be construed to apply to  
 539 procurements that involve the expenditure of federal assistance or  
 540 federal contract funds, provided federal law provides applicable  
 541 procurement procedures that are inconsistent with the requirements of  
 542 this section.

543 (q) Except as provided in subsection (o) of this section or for an  
 544 emergency procurement, any privatization contract entered into or  
 545 renewed on or after July 1, 2013, that was entered into or renewed  
 546 without complying with the provisions of this section shall be void. In  
 547 the case of such a contract entered into for an emergency procurement,  
 548 the commissioner of the state contracting agency shall certify, in  
 549 writing, that such privatization contract is for an emergency  
 550 procurement and that the nature of the emergency prevented full  
 551 compliance with the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2013	4e-1
Sec. 2	July 1, 2013	4e-16

***GAE***

*Joint Favorable C/R*

APP